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November 12, 2004

BY E-FILE AND OVERNIGHT DELIVERY
Mary L. Cottrell, Secretary
Department of Telecommunications and Energy
One South Station
Boston, MA 02110

Re: D.T.E. 04-86: Colonial Gas Company Request to Recover LBR as Exogenous Cost

Dear Ms. Cottrell:

Enclosed for filing please find an original and nine (9) copies of Bay State Gas Company's Amended Motion for Leave to Intervene.

Please do not hesitate to telephone me with any questions whatsoever.

Very truly yours,

Patricia M. French

cc: John Geary, Esq., Hearing Officer
Caroline O'Brien Bulger, Esq.
Patricia Crowe, Esq., KeySpan Energy Delivery New England
Service List

CERTIFICATION

I, Susan Kullberg, hereby certify that I have caused a copy of the within to be served on each of the individuals on the service list for D.T.E. 04-86 on file with the Secretary of the Department of Telecommunications and Energy.

Dated at Westborough, Massachusetts, this 12th day of November, 2004.

)	
Petition of Colonial Gas Company)	
d/b/a KeySpan Energy Delivery)	
for approval of recovery of exogenous)	
costs resulting from the Department's)	D.T.E. 04-86
change in policy regarding the recovery)	
of lost base revenues associated with)	
demand-side management programs.)	
)	

Pursuant to 220 C.M.R. §1.03, Bay State Gas Company (“Bay State”) hereby moves that the Department of Telecommunications and Energy (“Department”) grant it leave to intervene as a full party in this proceeding. On October 29, 2004, Bay State timely filed its intervention motion. On November 10, 2004, the Department sought a fuller explanation of why Bay State is “substantially and specifically affected” by Colonial Gas Company d/b/a KeySpan Energy Delivery’s (“Colonial’s”) request to recover lost base revenues (“LBR”) resulting from demand side management (“DSM”) programs in its exogenous cost factor. Accordingly, Bay State seeks to amend its intervention motion.

1. Bay State is a jurisdictional gas company as defined in G.L. c. 164, §1.
2. Bay State's principal office is 300 Friberg Parkway, Westborough, Massachusetts

01581.

3. On September 16, 2004, Colonial filed a petition with the Department requesting recovery of LBR resulting from DSM programs. It sought this recovery as an exogenous cost and based its request upon a recognized change in Department policy that affected its recovery of LBR.

4. The Department has discretion to allow any person to intervene as a party if that person is "substantially and specifically affected" by the proceeding. G.L. c. 30A, § 11 and 220 C.M.R. §1.03.

5. Bay State is substantially and specifically affected by this proceeding because:

(a) Bay State currently has pending before the Department two separate petitions seeking recovery of LBR as an exogenous cost pursuant to the same precedent relied upon by Colonial. See Bay State Gas Co., D.T.E. 04-57 (*pending*); Bay State Gas Co., D.T.E. 04-93 (*pending*). These petitions are not insignificant to Bay State; they reflect significant revenue impact on Bay State as a result of a change in the policy governing how to calculate LBR;¹

(b) Each time the Department has reviewed a request for exogenous cost recovery of LBR, it has sought more detailed information about the filings, increasing both the Department's and Bay State's understanding of the calculations and the accompanying filings. For instance, in Bay State's pending request docketed as D.T.E. 04-57, the Department sought

¹ These two dockets also reflect – what is expected to be -- Bay State's final requests for exogenous cost recovery of LBR. Once the Department concludes its review and investigation of D.T.E. 04-57 and D.T.E. 04-93.
(Footnote continued on next page)

additional information relative to theoretically expired measures and whether the theoretical impact of such measures should be included in the calculation to reduce the level of claimed savings. After reviewing both the Department's questions and Colonial's previous filings, Bay State sought to admit evidence subsequent to hearing in order to provide such a calculation. Bay State recognizes that the manner in which the Department grants Colonial's requests for LBR as an exogenous cost directly affect the manner in which Bay State may be expected to make its filings;

(c) Three standards govern the Department's review of exogenous cost recovery, applicable equally to Colonial's and Bay State's pending petitions. Any change to the Department's *as applied* interpretation of any of those standards in this proceeding would directly affect Bay State's pending petitions;

(d) The outcome of this proceeding may directly impact Bay State's pending petition in D.T.E. 04-57 and in D.T.E. 04-93 before the Department; and

(e) More generally, the recovery of exogenous cost that the Department may or may not endorse for its jurisdictional companies subject to price cap or performance based rates, and apply to Bay State in the future, may be impacted by the Department's findings and analysis in this proceeding.

6. No other party can adequately protect Bay State's interests.

(Footnote continued from previous page)

93, Bay State expects that it will no longer be "substantially and specifically" affected by Colonial's exogenous cost filings for LBR recovery.

WHEREFORE, for these reasons, Bay State respectfully requests that the Department permit it to amend its initial motion to intervene as set forth herein. Bay State requests that the Department grant its motion for leave to intervene as a full party, taking such further action as it may deem necessary and appropriate.

Respectfully submitted,

BAY STATE GAS COMPANY

By its attorneys,

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